

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
May 12, 2009

The regular meeting of the St. Joseph County Council was called to order at 7:04 p.m., on May 12, 2009, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Mark Catanzarite	Mr. Corey D. Noland
Mr. Dale DeVon	Mr. W. Randall Przybysz
Mr. Michael J. Kruk	Mr. Mark Root
Mr. Rafael Morton	Mr. Dennis R. Schafer
	Mr. Heath O. Weaver

Present from the Auditor's office was Mr. Peter H. Mullen, Auditor and Cindy Bodle, Chief Deputy Auditor.

Council staff present were Mr. Michael A. Trippel, Attorney and Ms. Joan M. Pawlowski, Executive Secretary

**Petitions, Communications & Miscellaneous Matters:**

Mr. Przybysz moved to return to Committee Bill No. 33-09, 34-09, 35-09 and 36-09 at the request of the petitioner. Mr. Kruk seconded the motion and it passed by a voice vote 9-0. No negatives were heard.

Mr. Przybysz moved that the following be reappointed:

John Ferrettie, Early Intervention Plan Advisory Board  
Rafael Morton, Early Intervention Plan Advisory Board  
Mark Root, MACOG Policy Board

No other nominations were heard. The voice vote was 9-0, no negatives were heard.

Moved by Mr. Kruk and seconded by Mr. Catanzarite, the minutes of April 14, 2009 were approved by a voice vote; 9-0. No negatives were heard.

No report from the County Auditor.

No report from the Board of Commissioners.

Report from any Special Committees.

**First Readings:**

**BILL NO. 44-09:** AN ORDINANCE APPROVING THE PETITION FOR TEMPORARY SPECIAL USE FILED BY RIETH-RILEY CONSTRUCTION CO., INC. FOR THE PROPERTY LOCATED AT 11801 MCKINLEY HIGHWAY, PENN TOWNSHIP, MISHAWAKA, INDIANA THE SAME BEING PETITION NO. 05-06-09-07 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

**BILL NO. 45-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$25,800.00 OUT OF THE ST. JOSEPH COUNTY PLAT BOOK MAINTENANCE FUND - 037 AND THE COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 002 - Auditor) - Assigned to the Budget and Administration Committee

**BILL NO. 46-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$6,674,017.00 OUT OF THE ST. JOSEPH COUNTY C.E.D.I.T. FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Commissioners/Auditor) - Assigned to the Budget and Administration Committee

**BILL NO. 48-09:** AN ORDINANCE TO AMEND ORDINANCE 99-08 AN ORDINANCE APPROPRIATING MONEYS FOR THE PURPOSE OF DEFRAYING THE EXPENSES OF THE SEVERAL DEPARTMENTS OF THE COUNTY GOVERNMENT OF ST. JOSEPH COUNTY, INDIANA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009 AND ENDING DECEMBER 31, 2009, INCLUDING ALL OUTSTANDING CLAIMS AND OBLIGATIONS AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT. - Assigned to the Budget and Administration Committee

**BILL NO. 49-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$1,269,661.00 OUT OF THE ST. JOSEPH COUNTY RAINY DAY FUND - 022 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Auditor/County Council) - Assigned to the Budget and Administration Committee

**BILL NO. 50-09:** AN ORDINANCE AMENDING ORDINANCE 13-09 AND ORDINANCE NO. 20-09 AS PASSED BY THE ST. JOSEPH COUNTY COUNCIL DUE TO A SCRIVENER ERROR. - Assigned to the Rules Committee

**BILL NO. 51-09:** AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO WIT: Commonly known as 12370 E. McKinley, Osceola. (Petitioner: PHM School Corporation) - Assigned to the Land Use Planning Committee

**BILL NO. 52-09:** AN ORDINANCE TO AMEND SECTION 16.54 PLAT BOOK MAINTENANCE FUND FEES OF TITLE 16 OF THE ST. JOSEPH COUNTY CODE ENTITLED "PLAT BOOK MAINTENANCE FUND" (Petitioner: Auditor) - Assigned to the Budget and Administration Committee

**BILL NO. 53-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$8,300.00 OUT OF THE ST. JOSEPH COUNTY AIDS GRANT FUND - 605 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 055 - Health - Aids Grant) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 54-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 17963 CLEVELAND ROAD SOUTH BEND, IN 46635 FROM B BUSINESS TO B BUSINESS DISTRICT. (Petitioner: Bhola Singh) - Assigned to the Land Use Planning Committee

**BILL NO. 55-09:** AN ORDINANCE TO AMEND CHAPTER 6.08 OF THE ST. JOSEPH CODE ENTITLED "PERMIT FEES" (Driveway & Utility Permits and adding Section 6.08.076 Stop Work Order). (Petitioner: Dept. 023 - County Engineer) - Assigned to the Engineering and Transportation Committee

**Resolutions:**

**BILL NO. 47-09:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL APPROVING THE ST. JOSEPH COUNTY PUBLIC LIBRARY CAPITAL PROJECTS PLAN FOR 2010, 2011 & 2012.

Donald Napoli, Director of the Library gave a presentation of the projected projects. Much of the budget this year is going for the RFID - Radio Frequency ID equipment that is being installed throughout the library system. Funds will be used for the sorting equipment and self checkout machines. Some of the funds will be used for real estate purchases in the downtown area.

Motion to pass was made by Mr. Weaver and seconded by Mr. Kruk. Bill No. 47-09 passed by a vote of; 9-0.

**Public Hearings:**

**BILL NO. 28-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$22,000.00 OUT OF THE ALT. DISPUTE RESOLUTION FUND - 116 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 28-09 comes with a favorable recommendation.

Beth Kerns, Director, stated that these funds will be used to subsidize mediation with the hope to keep the courts free.

Motion to pass was made by Mr. Catanzarite and seconded by Mr. Kruk. Bill No. 28-09 passed to-wit; 9-0.

**BILL NO. 31-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$6,700.00 OUT OF THE D.R.C.B. FEE FUND - 117 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 31-09 comes with a favorable recommendation.

Beth Kerns, Director, reported that the funds from User Fees were needed for computer hardware and software to put all the files on the computer.

Mr. Weaver commended them for moving toward a paperless system.

Motion to pass was made by Mr. Schafer and seconded by Mr. Weaver. Bill No. 31-09 passed to-wit; 9-0.

**BILL NO. 37-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$10,000.00 OUT OF THE ST. JOSEPH COUNTY HEALTH BIOTERRORISM GRANT FUND - 510 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 37-09 comes with a favorable recommendation.

The Clerk read the amendment stating that account 11157 was to be added at \$5,000 and Public Information Education would be changed to \$5,000 with the total remaining the same.

Motion to amend was made by Mr. DeVon and seconded by Mr. Przybysz.

Mr. Morton asked if the petitioner agreed with the motion. His response was yes.

Nick Molchan, Administrator, explained that these funds were received from the Indiana State Department of Health - CDC. These funds will be used to buy equipment and reduce the County for part of the salary of the staff member who does the emergency preparedness activities.

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz. Bill No. 37-09 passed as amended; 9-0.

**BILL NO. 29-09:** AN ORDINANCE TRANSFERRING THE SUM OF \$29,000.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 29-09 comes with a favorable recommendation.

Nick Molchan, Administrator, explained that the transfer was within a grant. They have found it unnecessary to hire the second position and will use the funds to provide training. He felt that they would be in a good position to qualify for a follow up grant at the end of this year.

Motion to pass was made by Mr. Kruk and seconded by Mr. Weaver. Bill No. 29-09 passed to-wit; 9-0.

**BILL NO. 38-09:** AN ORDINANCE AMENDING ORDINANCE 99-08, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2009. (Dept. 037 - Historic Preservation) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 38-09 comes with a favorable recommendation.

The Clerk read the amendment stating that in Section 2 the verbage "retroactive to 1/1/09" was added.

Motion to amend was made by Mr. DeVon and seconded by Mr. Przybysz.

Mr. Morton asked if the petitioner agreed with the amendment. The response of yes was heard.

Catherine Hostetler, Director, this change will comply with the recommendation from the State Board of Accounts.

Motion to pass was made by Mr. Przybysz and seconded by Mr. Kruk. Bill No. 38-09 passed to-wit; 9-0.

**BILL NO. 39-09:** AN ORDINANCE AMENDING TITLE 16, ENTITLED REVENUE & FINANCE OF THE ST. JOSEPH COUNTY CODE, BY REPEALING CHAPTER 16.60, ENTITLED SUPPLEMENTAL JURY FEES - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 39-09 comes with a favorable recommendation.

Patricia Evans, Administrator, explained that according to State Statute that jurors that show up and do not serve are to be paid \$15.00 a day. Jurors who serve are to be paid \$40.00. For years the County has supplemented the jury pay and the Judge is now asking that the supplement that has been paid by the County be repealed. This could save the County approximately \$40,000.00 a year. This pay was for Superior and Circuit Court jurors.

Motion to pass was made by Mr. Kruk and seconded by Mr. Weaver. Bill No. 39-09 passed to-wit; 9-0.

**BILL NO. 22-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED IN THE 17600 BLOCK OF GENERATIONS DRIVE, SOUTH BEND, IN 46635 FROM "M" MANUFACTURING INDUSTRIAL DISTRICT TO "R-2" RESIDENTIAL DISTRICT AND "O" OFFICE DISTRICT. (Petitioner: North Central IN Medical Education Foundation) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 22-09 comes with a favorable recommendation.

Christa Nader, Area Plan Commission, stated that this rezoning was for two parcels. Parcel 1 is to be rezoned to O Office District for professional offices and Parcel 2 is to R-2 Residential District to a multi-family residential dwelling - seven (7) apartment buildings. The Area Plan Commission sends this with a favorable recommendation.

Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, representing the petitioner. He stated that this would be a medical office facility and a multi-family center. There has been some interest but no actual buyer for the property. There is a buyer for two (2) medical office units. The landscaping standards for the center are more restrictive than that of the County. All these sites would be hooked up to water and sewer.

Motion to pass was made by Mr. DeVon and seconded by Mr. Przybysz. Bill No. 22-09 passed to-wit; 9-0.

**BILL NO. 25-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT VACANT LOT NORTH & ADJACENT TO 1500 E. MCKINLEY AVE., FROM R - SINGLE FAMILY DISTRICT TO C - COMMERCIAL DISTRICT. (Petitioner: Stoyan Stoyanov) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 25-09 comes without a recommendation.

Christa Nader, Area Plan Commission, reported that the Area Plan Commission sends this petition with a favorable recommendation. This property will eventually be annexed into the City of Mishawaka. However, because of the 2010 Census this annexation will be done later. The property will be used for a used car dealership. Part of the property is already in the City of Mishawaka.

Andrew Cooper, Progressive Engineering, 58640 SR 15, Goshen, stated that they were under the impression that the entire site was in the City of Mishawaka. He stated that they have been bounced back and forth between the County and the city. This is the solution to the problem.

Motion to pass was made by Mr. Kruk and seconded by Mr. DeVon. Bill No. 25-09 passed to-wit; 9-0.

**BILL NO. 26-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR THE PROPERTY LOCATED AT 15601 STATE ROAD 23, GRANGER, INDIANA, FROM "R" SINGLE FAMILY DISTRICT TO "O/B" OFFICE/BUFFER DISTRICT. (Petitioner: Scott Von Stetina) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 26-09 comes with a favorable recommendation.

Christa Nader, Area Plan Commission, gave the report that the Area Plan sent this petition with a favorable recommendation. She explained that the rezoning was for a dental office. There will be twenty-one parking spaces and the existing access road on SR 23 will remain. The neighbors are in support of this rezoning. This recommendation comes subject to a written commitment to place a twenty-five foot wide cross access easement to the adjacent properties on both sides.

Bernard Feeney, Lang, Feeney and Associates, 715 S. Michigan Street, stated that he was representing the owner and the petitioner. This is a residential home that has been untouched for the last several years. This home will be used as his office. There will be no additions or subtractions to the exterior of the structure. The parking lot will be in the front and utilize the existing curb cut that is provided on SR 23. There will be twenty-one (21) parking spaces instead of the required five (5) for Dr. Stangbye's clientele. The improvement of the Dr.'s site will not penalize the hair salon to the west in any way. There are several dry wells that have been added to the parking lot that will take most of the drainage from the parking lot to a retention area at the rear of the property, along with a swale that is proposed just before the hair salon. He stated that they would prefer that this be approved without the stipulation of a written commitment for an easement in a frontage road along and parallel to SR 23. SR 23 has been improved and is now five (5) lanes wide. With the fully developed shoulders, this represents seven (7) full traffic lanes from side to side. He stated how they felt additional pavement was unnecessary.

Motion to pass was made by Mr. DeVon without the written commitments for an easement access as requested the Area Plan Commission. The motion was seconded by Mr. Przybysz. Bill No. 26-09 passed to-wit; 8-1 (Kruk).

**Unfinished Business:**

**BILL NO. 90-08 - As Amended - Ordinance No. 24-09 - Vetoed by the Board of Commissioners on 3/24/09**

AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL REPEALING TITLE 6, CHAPTER 6.24, AS AMENDED, OF THE ST. JOSEPH COUNTY CODE AND REPLACING WITH A NEW TITLE 6, CHAPTER 6.24 ENTITLED RESPONSIBLE TAX PHASE-IN PROCEDURES & GENERAL STANDARDS.

Motion to override was made by Mr. Catanzarite and seconded by Mr. Kruk. Motion passed by a vote; 6-3 (Schafer, Root, DeVon).

Mr. DeVon commented that he knows that a lot of time was spent on this bill and he may not agree with how the process went, but he longs for the day that the members who were for this bill can tell him I told you so. He stated that he has not signed one (1) contract this year to build a home for anyone. Builders and contractors are going out of business everyday and there have only been fifty (50) permits pulled this year to build homes in the County. He stated that he knows that it is a downed economy everywhere. Regardless to what you say, this will hinder growth. He challenged them in the next six (6) to ten (10) to twelve (12) months that if we don't get any kind of growth that you will look at being proactive and creating growth in St. Joe County.

**New Business:**

Mr. Catanzarite wanted to comment that Kevin Kubsch did a wonderful job for the Council and he appreciated his expertise in law enforcement and public safety issues. He also wished Mr. Noland much success on the Council.

**Privilege of the Floor:**

**Adjournment:**

Mr. Morton stated that the meeting was adjourned at 6:57 p.m.

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Auditor, St. Joseph County

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President, St. Joseph County Council